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BY ECF

The Honorable Joanna Seybert
U.S. District Court
P.O. Box 9014
Central Islip, New York 11722-9014

Re: *U.S. v. Christian Gerold Tarantino*
Case No. 08-CR-655(JS)

Dear Judge Seybert:

By this Letter, the defendant seeks to disqualify Assistant United States Attorney James M. Miskiewicz as a prosecutor in this case. The defendant previously filed an amended motion to disqualify Mr. Miskiewicz (DE 285) which is incorporated herein. The Court is respectfully referred to the facts and authorities cited in that amended motion.

The Court denied the motion to disqualify, finding: "Contrary to Defendant's position, the Conway Ruling does not compel the conclusion that Defendant may call AUSA Miskiewicz to testify about Joseph Pistone's plea allocution. (DE 291 at 2). The Court reached this conclusion based upon the following:

The thrust of the Conway Ruling was that Defendant could present evidence that the Government once believed someone whose account of the Dorval murder was inconsistent with its theory in this prosecution, including that Dorval was killed for reasons unrelated to fears that he would cooperate with federal authorities. Unlike his brother's account of the Dorval murder, Joseph Pistone's account is not inconsistent with the Government's position in this case; although Joseph Pistone allocuted to shooting Dorval, **the Government has never claimed that Defendant actually fired the fatal bullet.**

Id. (emphasis supplied).

The Government now explicitly is claiming that the defendant killed Dorval. Since the Court's ruling, the Government struck a cooperation agreement with Scott Mulligan who will testify for the prosecution. According to the Government's filing of January 12, 2012, Mulligan will testify that "the Defendant killed Dorval...". (DE 313 at 2).

Now that the Government is claiming through Mulligan that the defendant killed Dorval, the Court is respectfully requested to disqualify Mr. Miskiewicz for the reasons previously presented in DE 285.

Very truly yours,

S/STEPHEN H. ROSEN

SHR/mr